

REMARKS

Claims 21-32 and 34-42 are pending, of which claims 21, 39, 40, and 42 are independent. Favorable reconsideration and further examination are respectfully requested.

Allowable Subject Matter

Applicants acknowledge Examiner's conclusion that claims 39, 40, and 42 are allowed.

35 U.S.C. §103

Claims 21-32, 34-38, and 41 were rejected over Japanese Publication No. 2001-292050 (Mita) in view of International Publication No. WO 03/081773¹ (Bauer). As shown above, independent claim 21 recites, *inter alia*, "the first serial transducer and the second serial transducer being in an acoustic path and acoustically coupled with one another."

In this regard, the Office Action (page 3) correctly acknowledges that Mita does not disclose "the first serial transducer and the second serial transducer being in an acoustic path and acoustically coupled with one another," and apparently adds Bauer for allegedly teaching this feature. However, Bauer does not qualify as prior art under 35 U.S.C. §102(e), or any other statutory provision under 35 U.S.C. §102. Bauer is a U.S. national phase of international application no.: PCT/DE03/00980. Even if the international application (PCT/DE03/00980) was published in English and designated the U.S., the earliest possible section 102(e) date of Bauer

¹ Using the equivalent U.S. Patent No. 7,304,553 as the translation.

would be March 25, 2003 (its international filing date). The Applicants' claim priority back to February 4, 2003 through DE 10304470.1, which antedates Bauer's international filing date.

Furthermore, in this case, it appears as though the international application no.: PCT/DE03/00980 did not even publish in English.² Accordingly, the reference should not be applied as of its international filing date, its date of completion of the 35 U.S.C. § 371(c)(1), (2), and (4) requirements, or any earlier filing date to which the international application PCT/DE03/00980 claims benefit or priority.³

In view of the foregoing discussion, Applicants request withdrawal of the rejection of claims 21-32, 34-38, and 41 as being unpatentable over Mita in view of Bauer.

Each of the dependent claims is believed to define patentable features of the invention. Each dependent claim partakes of the novelty of its corresponding independent claim, in light of the foregoing amendments, and, as such, has not been discussed specifically herein.

It is believed that all of the pending claims have been addressed. However, the absence of a reply to a specific rejection, issue or comment does not signify agreement with or concession of that rejection, issue or comment. In addition, because the arguments made above may not be exhaustive, there may be reasons for patentability of any or all pending claims (or other claims) that have not been expressed. Finally, nothing in this paper should be construed as an intent to concede any issue with regard to any claim, except as specifically stated in this paper, and the amendment of any claim does not necessarily signify concession of unpatentability of the claim prior to its amendment.

² See, e.g., International Publication No. WO 03/081773.

³ See, e.g., MPEP § 2136.03(II)(B)

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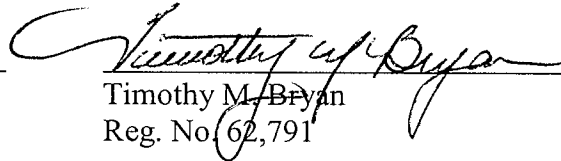
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In view of the foregoing amendments and remarks, Applicants respectfully submit that the application is in condition for allowance, and such action is respectfully requested at the Examiner's earliest convenience.

Please charge any additional fees, not already covered by check, or credit any overpayment, to deposit account 06-1050, referencing Attorney Docket No. 14219-0094US1.

Respectfully submitted,

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